

ASSEMBLY BILL

No. 2274

Introduced by Assembly Member Dababneh

February 18, 2016

An act to amend Sections 14453, 14456, 14550, 14804, 14950, 15050, and 15100 of, and to add Section 14556 to, and to repeal Section 14951 of, the Financial Code, relating to credit unions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2274, as introduced, Dababneh. Credit unions.

(1) The California Credit Union Law provides for the regulation of credit unions within the state by the Commissioner of Business Oversight. The law requires a credit union to be directed by a board of directors consisting of an odd number of directors, at least 5 in number, each of whom are a member of the credit union, to be elected by the members at their annual meeting. The law requires a credit union to have a supervisory committee of at least 3 persons, each of whom is a member of the credit union. The law authorizes the directors to delegate the approval of applications for new memberships to any officer, director, committee member, or employee pursuant to a written membership plan adopted by the board, provided the board reviews, at least quarterly, a report of membership applications approved by an officer, director, committee member, or employee.

This bill would require the board to meet on a regular basis, not less than quarterly, as reasonably determined by the board. The bill would require the membership of the supervisory committee to be an odd number and would authorize, in lieu of the requirement for a supervisory committee, the establishment of an audit committee and the selection of the members of the audit committee. The bill would remove the

requirement for the directors to, at least quarterly, review a report of membership applications approved by an officer, director, committee member, or employee to whom the directors delegated the authority to approve applications for new membership.

(2) The California Credit Union Law prohibits an obligation with a member that is not a natural person and results in liability to the credit union in excess of that member's investment in the credit union unless an exception is authorized in the credit union's bylaws and approved by the commissioner. The law authorizes any lending activity permitted pursuant to this provision to be terminated by the commissioner pursuant to a specific procedure.

This bill would repeal this prohibition.

(3) The California Credit Union Law limits the circumstances when a nonmember may participate in an obligation or extension of credit to a member as a joint applicant or co-obligor.

This bill would include the terms coborrower, surety, and guarantor within these provisions.

(4) The California Credit Union Law limits a credit union from entering, directly or indirectly, into any obligation with an officer, and defines that term to mean a director, officer, member of the supervisory committee, or member of the credit committee of a credit union.

This bill would modify that definition to remove the position of an officer, and to include the positions of a member of the audit committee, credit manager, president, and chief executive officer of a credit union.

(5) The California Credit Union Law requires any application for any loan or extension or guarantee of credit, except as specified, to state in writing the purpose for which the loan or extension or guarantee of credit is desired, and, if applicable, describe the property that is proposed to secure the loan or extension or guarantee of credit.

This bill would repeal this requirement.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14453 of the Financial Code is amended
- 2 to read:
- 3 14453. The board of directors of every credit union shall have
- 4 the general management of the affairs, funds, and records of the
- 5 credit union. *The board shall meet on a regular basis, not less*

1 *than quarterly, as reasonably determined by the board.* The board
2 may appoint an executive committee of no fewer than three
3 directors, to serve at its pleasure, to act as expressly approved by
4 the board of directors in accordance with the laws and regulations.

5 SEC. 2. Section 14456 of the Financial Code is amended to
6 read:

7 14456. Unless the bylaws expressly reserve any or all of the
8 following duties to the members, the directors have all of the
9 following special duties:

10 (a) To act upon all applications for membership. The directors
11 may delegate the power to approve applications for new
12 membership to: (1) the chairperson of a membership committee
13 or to an executive committee; or (2) any officer, director,
14 committee member, or employee, pursuant to a written membership
15 plan adopted by the board of ~~directors, provided the board of~~
16 ~~directors reviews at least quarterly a report of membership~~
17 ~~applications approved by an officer, director, committee member,~~
18 ~~or employee.~~ *directors.*

19 (b) To expel members for any of the following causes:

20 (1) Conviction of a criminal offense involving moral turpitude.

21 (2) Failure to carry out contracts, agreements or obligations
22 with the credit union.

23 (3) Refusal to comply with the provisions of this division or of
24 the bylaws.

25 Any members who are expelled by the board of directors have
26 the right to appeal therefrom to the members, in which event, after
27 hearing, the order of suspension may be revoked by a two-thirds
28 vote of the members present at a special meeting to consider the
29 matter.

30 (c) To determine from time to time the interest rate on
31 obligations with members and to authorize the payment of interest
32 refunds to borrowing members.

33 (d) To fix the maximum number of shares which may be held
34 by, and, in accordance with Section 15100, establish the maximum
35 amount of obligations which may be entered into with, any one
36 member.

37 (e) To declare dividends on shares in accordance with the credit
38 union's written capital structure policy and to determine the interest
39 rate or rates which will be paid on certificates for funds.

1 (f) To amend the bylaws, except where membership approval
2 is required.

3 (g) To fill vacancies in the credit committee, and to temporarily
4 fill vacancies caused by the suspension of any or all members of
5 the credit committee, pending a meeting of the members to
6 determine whether to affirm the suspension and vacate the office,
7 or to reinstate the member or members.

8 (h) To direct the deposit or investment of funds, except loans
9 to members.

10 (i) To designate alternate members of the credit committee who
11 shall serve in the absence or inability of the regular members to
12 perform their duties.

13 (j) To perform or authorize any action not inconsistent with law
14 or regulation and not specifically reserved by the bylaws for the
15 members, and to perform any other duties as the bylaws may
16 prescribe.

17 SEC. 3. Section 14550 of the Financial Code is amended to
18 read:

19 14550. Every credit union shall have a supervisory committee
20 of at least three persons, *provided that the number of members on*
21 *the committee is an odd number*, each of whom shall be a member
22 of the credit ~~union~~. *union and elected by the members of the credit*
23 *union. In the alternative, the board of directors may establish an*
24 *audit committee subject to the requirements of Section 14556.*

25 SEC. 4. Section 14556 is added to the Financial Code, to read:

26 14556. (a) The board of directors may, by resolution, establish
27 an audit committee in lieu of a supervisory committee. An audit
28 committee that meets all the requirements of this section shall be
29 deemed to satisfy the requirements for a supervisory committee
30 set forth in Sections 14550 to 14555, inclusive, or in any applicable
31 bylaw provision.

32 (b) The vote of the board of directors to establish an audit
33 committee in lieu of a supervisory committee must be affirmed by
34 membership vote. Following the affirmative vote of the
35 membership, the supervisory committee shall be deemed dissolved
36 upon the appointment of an audit committee by the board of
37 directors.

38 (c) The audit committee shall consist of at least three persons,
39 provided that it is an odd number, each of whom shall be a member
40 of the credit union and appointed by a majority of the board of

1 directors. At least one member of the audit committee shall be a
2 member of the board of directors. No member of the audit
3 committee shall serve as a member of the credit committee, as the
4 credit manager, as the board chairman, or as an employee of the
5 credit union.

6 (d) The audit committee shall carry out the responsibilities set
7 forth in subdivision (c) of Section 14551 and Sections 14551.5
8 and 14553 of this division and shall:

9 (1) Ensure that the credit union complies with Section 14252
10 of this division.

11 (2) Ensure that the credit union maintains an effective internal
12 audit program, including a system of internal controls and
13 individuals with sufficient training and experience to adequately
14 and timely review all key areas of a credit union's operations.

15 (e) The board of directors may, by subsequent resolution,
16 re-establish a supervisory committee in lieu of an audit committee,
17 which must be affirmed by membership vote. The audit committee
18 shall be deemed dissolved upon the election of a supervisory
19 committee by the membership.

20 SEC. 5. Section 14804 of the Financial Code is amended to
21 read:

22 14804. The members of a credit union shall hold an annual
23 meeting for the election of directors and a supervisory committee
24 ~~and, of: (a) directors; (b) a supervisory committee, unless the~~
25 ~~board of directors has appointed an audit committee pursuant to~~
26 ~~Section 14556; and (b) credit committee, if provided for in its~~
27 ~~bylaws, the election of a credit committee, bylaws. The annual~~
28 ~~meeting shall be held~~ upon such notice and at such time and place
29 as the bylaws provide.

30 SEC. 6. Section 14950 of the Financial Code is amended to
31 read:

32 14950. (a) Every credit union may enter into obligations with
33 its members upon the approval of the credit committee or, in the
34 alternative, the credit manager, subject to the terms and conditions
35 established by the board of directors pursuant to Section 15100.

36 (b) (1) The board of directors of a credit union shall adopt a
37 policy governing the acceptance by the credit union of notes
38 receivable from nonmembers as consideration for the sale of assets
39 owned by the credit union through bona fide transactions.

(2) No credit union may accept notes receivable from nonmembers as consideration for the sale of assets owned by the credit union except in accordance with a policy adopted by the board of directors pursuant to paragraph (1).

(3) Transactions subject to this subdivision shall not be deemed to be loans to nonmembers for purposes of Section 14750.

(c) Notwithstanding subdivision (a), a credit union may permit a nonmember to participate in an obligation or extension of credit to a member as a joint ~~applicant or co-obligor~~ *applicant, co-obligor, coborrower, surety, or guarantor*. An obligation or extension of credit made pursuant to this subdivision shall not be deemed a violation of subdivision (b) of Section 14800. Except as otherwise permitted by statute or regulation, the credit union shall not extend any other benefit or service of the credit union to the nonmember solely as a result of participation as a joint ~~applicant or co-obligor~~ *applicant, co-obligor, coborrower, surety, or guarantor* unless the nonmember is thereafter admitted to membership.

SEC. 7. Section 14951 of the Financial Code is repealed.

~~14951. Any application for any loan or extension or guarantee of credit, except an application for an extension of a loan, shall be in writing, shall state the purpose for which the loan or extension or guarantee of credit is desired, and, if applicable, shall describe the property that is proposed to secure the loan or extension or guarantee of credit.~~

SEC. 8. Section 15050 of the Financial Code is amended to read:

15050. (a) For purposes of this section, the following definitions shall apply:

(1) "Credit manager" means any individual, regardless of title, designated pursuant to Section 14600 to fulfill the duties of a credit manager.

(2) "Obligation" means any loan or approved line of credit, including both used and unused portions, on which the official is a borrower, coborrower, cosigner, endorser, or guarantor.

(3) "Official" means a director, ~~officer, or~~ member of the supervisory committee, ~~or member of the audit committee~~, member of the credit committee, *credit manager, president, or chief executive officer* of a credit union.

1 (b) No credit union shall enter into any obligation with any
2 official, directly or indirectly, unless (1) the obligation complies
3 with all lawful requirements of this division with respect to
4 obligations permitted for other members of the credit union, (2)
5 the obligation is not on terms more favorable than those extended
6 to other members of the credit union, and (3) the obligation is
7 entered into in accordance with a written policy adopted by the
8 directors establishing that all officials shall have an equal
9 opportunity to enter into obligations with the credit union.

10 (c) No credit union shall enter into any obligation with any
11 official, directly or indirectly, unless all of the following
12 requirements are satisfied:

13 (1) Upon the making of the obligation, the aggregate amount
14 of obligations outstanding to all officials, except obligations fully
15 secured by shares, shall not exceed 20 percent of the aggregate
16 dollar amount of all savings capital of the credit union.

17 (2) The obligation, except any portion of an obligation fully
18 secured by shares, shall not exceed the maximum obligation to the
19 credit union set forth in subdivisions (b) and (c) of Section 15100.

20 (3) Any obligation that would cause the aggregate amount of
21 obligations outstanding to the official to exceed fifty thousand
22 dollars (\$50,000), excluding any portion fully secured by shares,
23 shall be approved by the credit committee or the credit manager,
24 and by the board of directors. An official shall not take part in any
25 credit decision, directly or indirectly, for his or her benefit and
26 shall not be present during any portion of any committee or board
27 meeting where his or her credit application is under consideration.

28 (4) The names of members of the credit committee, the credit
29 manager, and board of directors who voted to authorize or ratify
30 the obligation shall be entered in their respective minutes.

31 (d) No credit union shall permit an official to become surety
32 for any obligation created by the credit union for anyone other
33 than a member of his or her immediate family.

34 (e) No credit union shall enter into any obligation with any
35 credit manager or any officer employed by the credit union unless
36 the obligation is in compliance with all requirements of this
37 division with respect to obligations permitted for other
38 nonemployee members, and not on terms more favorable than
39 those extended to other employees, and approved by the board of
40 directors.

1 SEC. 9. Section 15100 of the Financial Code is amended to
2 read:

3 15100. (a) The board of directors shall establish written
4 policies which shall set forth the policies of the credit union with
5 respect to any obligation that is offered to the members of the
6 credit union. The written policies shall set forth the maximum
7 amounts and terms for any obligation offered to the members,
8 including, but not limited to, the following information:

9 (1) For loans, the written policies shall set out the terms for
10 unsecured loans, the maximum amount and terms for secured
11 loans, the schedule of interest rates established pursuant to Section
12 15000 for each type or class of unsecured and secured loan offered
13 to members, the maximum maturity for any loan, or, in the case
14 of an open-end loan, the rate of repayment for any type or class
15 of open-end loan, the limitations, if any, which shall be placed on
16 the authority of any loan officer appointed pursuant to Sections
17 14602 and 14603, and, subject to the provisions of subdivisions
18 (b) and (c), the individual limits on obligations that are applicable
19 to all members of the credit union. Any policy developed pursuant
20 to this section by the board of directors shall, insofar as possible,
21 and, subject to individual creditworthiness, ensure equal access to
22 funds available for obligations with credit union members.

23 (2) For obligations other than those set out in paragraph (1), the
24 board of directors shall set out the interest rates and essential terms
25 of the obligations offered to the members and any other information
26 as may be required pursuant to regulations that may be adopted
27 by the commissioner.

28 (b) Notwithstanding subdivision (a), no credit union policy shall
29 permit a credit union to enter into obligations with an individual
30 credit union member whereby the total obligations of that member,
31 exclusive of amounts secured by shares or certificates for funds,
32 exceed 10 percent of the aggregate dollar amount of the credit
33 union's savings capital.

34 (c) Notwithstanding subdivision (b), no credit union policy shall
35 permit a credit union to enter into obligations with any one family
36 whereby the total obligations of the family would be greater than
37 the amount permitted by subdivision (b). For purposes of this
38 article, "family" means the marital couple or any head of household
39 together with those dependents residing with the marital couple
40 or the head of household and those dependents attending school

1 away from the principal residence of the marital couple or head
2 of household.
3 ~~(d) Notwithstanding subdivisions (a), (b) and (c), any obligation~~
4 ~~with a member which is not a natural person shall not result in~~
5 ~~liability to the credit union in excess of that member's investment~~
6 ~~in the credit union unless an exception is authorized in the credit~~
7 ~~union's bylaws and approved by the commissioner. Any lending~~
8 ~~activity permitted pursuant to this subdivision may be terminated~~
9 ~~by an order issued by the commissioner pursuant to Sections 14200~~
10 ~~and 14204.~~

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